

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 18, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

OSCAR BARRERA-GAYTAN, (01),
JOVANI ORTEGA-GARCIA, (02),
JOSE SALAS-ORTEGA, (03),
JOSE ANTONIO GONZALEZ-
SANCHEZ, (04),
BIANCA LOPEZ, (05),
JONATHAN PARRA, (06),
DANIEL LOERA, (07),

Defendants.

No. 4:19-cr-06069-SMJ-01
4:19-cr-06069-SMJ-02
4:19-cr-06069-SMJ-03
4:19-cr-06069-SMJ-04
4:19-cr-06069-SMJ-05
4:19-cr-06069-SMJ-06
4:19-cr-06069-SMJ-07

**ORDER GRANTING DEFENDANT
BARRERA-GAYTAN'S MOTION
AND DECLARATION TO
CONTINUE PRE-TRIAL AND
TRIAL DATES**

**AMENDED¹ CASE
MANAGEMENT ORDER**

Before the Court, without oral argument, is Defendant Oscar Barrera-Gaytan's (01) Motion and Declaration to Continue Pre-trial and Trial Dates, ECF No. 142.² Defense counsel Ricardo Hernandez requests a continuance of the pretrial

¹ This Order amends and supersedes in part the Court's December 9, 2019 Case Management Order, ECF No. 104, as to Defendant Ramirez (04), the Court's December 11, 2019 Case Management Order, ECF No. 77, as to the remaining Defendants, and January 6, 2020, Amended Case Management order, ECF No. 130, as to all Defendants.

² Also pending before the Court are Defendant Jonathan Parra's (06) motion to join in Defendant Barrera-Gaytan's (01) motion, ECF No. 143, Defendant Daniel Loera's (07) motion to join in Defendant Barrera-Gaytan's (01) motion, ECF No. 150, and Defendant Jose Salas-Ortega's (03) Notice to Join in Pretrial Motions Filed

1 motions filing deadline, the pretrial conference, and the trial, to allow more time to
 2 examine discovery, prepare any related motions, and prepare for trial.³ All
 3 Defendants support the requested continuance for the articulated reasons. ECF Nos.
 4 152, 153, 155, 156, 158, 159 & 160. Defense counsel for all Defendants agree
 5 regarding the proposed case management deadlines. ECF No. 150. Assistant United
 6 States Attorney Benjamin D. Seal, appearing on behalf of the Government, does not
 7 oppose the requested continuance. ECF No. 142.

8 The Indictment as to all Defendants was filed on December 10, 2019. ECF
 9 No. 51. Ricardo Hernandez appeared on behalf of Defendant Barrera-Gaytan (01)
 10 on December 6, 2019. ECF No. 6.⁴ Adam R. Pechtel appeared on behalf of
 11 Defendant Ortega-Garcia (02) on December 6, 2019. ECF No. 12. Nicholas Wright
 12 Marchi appeared on behalf of Defendant Salas-Ortega (03) on December 6, 2019.

13
 14 By Other Defendants, ECF No. 154. As the Court now grants Defendant Barrera-
 15 Gaytan's (01) motion, continues trial, and resets all pending case management
 16 deadlines as to *all* Defendants, these related motions, ECF Nos. 143, 150 & 154, are
 17 denied as moot.

18 ³ Defense counsel's motions sought to extend, among other things, the deadline to
 19 file all pretrial motions, *see* ECF No. 142, and was filed on March 2, 2020, the same
 20 day by which such motions were to be filed, *see* ECF No. 138. Counsel is reminded
 that when a motion seeks time-sensitive relief, such as to extend a deadline
 occurring before a motion would typically be set for hearing, counsel must file a
 motion to expedite. *See* LCivR 7(i)(2)(C).

⁴ The Court notes that prior to the filing of the Indictment on December 10, 2019,
see ECF No. 51, the public docket sheet includes multiple entries assigned the same
 ECF number. However, the Court believes the context of its references to the docket
 in this Order adequately identifies to which entries it refers.

1 ECF No. 13. Gregory Lee Scott appeared on behalf of Defendant Gonzalez-Sanchez
2 (04) on December 11, 2019. ECF No. 78. Alex B. Hernandez, III appeared on behalf
3 of Defendant Lopez (05) on December 9, 2019. ECF No. 22. Kenneth D. Therrien
4 appeared for Defendant Parra (06) on December 6, 2019. ECF No. 14. Richard A.
5 Smith appeared on behalf of Defendant Loera (07) on December 6, 2019. ECF
6 No. 43.

7 This is the second request for a continuance by any Defendant. To ensure
8 defense counsel are afforded adequate time to review discovery, prepare any pretrial
9 motions, conduct investigation, and prepare for trial, the Court grants the motion,
10 extends the pretrial motion deadline, and resets the currently-scheduled pretrial
11 conference and trial dates. The Court finds that Defendants' continuance requests
12 are knowing, intelligent, and voluntary, and that the ends of justice served by
13 granting a continuance outweigh the best interest of the public and Defendants in a
14 speedy trial. The delay resulting from Defendant Barrera-Gaytan's (01) motion is
15 therefore excluded under the Speedy Trial Act as to all Defendants.

16 Counsel are advised that all successive continuance requests will be closely
17 scrutinized for the necessity of more time to effectively prepare, taking into account
18 the exercise of due diligence.

19 **In addition, counsel is advised that all future motions to extend or alter**
20 **case management dates or deadlines will be considered applicable to all**

1 **Defendants unless an individual Defendant expresses a desire to be excluded**
2 **from the motion.** Accordingly, prior to filing any such motion in the future, **all**
3 defense counsel shall confer and, if all Defendants are in agreement, so state in
4 filing a single joint motion. Counsel is reminded that prior to ruling on a motion to
5 continue trial, all Defendants must provide signed Statements of Reasons.

6 Having considered the parties' proposed case schedule and deadlines, the
7 Court now enters the following Amended Case Management Order, which sets forth
8 the deadlines, hearings, and requirements the parties will observe in this matter. To
9 the extent this Order conflicts with any previously entered Orders in this matter, this
10 Order shall govern. All counsel are expected to carefully read and abide by this
11 Order and such provisions of the current CMOs which have not been superseded
12 hereby. The Court will grant relief from the requirements in this Order only upon
13 motion and good cause shown.

14 Accordingly, **IT IS HEREBY ORDERED:**

- 15 **1.** Defendant Oscar Barrera-Gaytan (01) Motion and Declaration to
16 Continue Pre-Trial and Trial Dates, **ECF No. 142**, is **GRANTED**.
- 17 **2.** Defendant Jonathan Parra's (06) Motion to Join as to Defendant Oscar
18 Barrera-Gaytan's Motion to Continue Pretrial Conference and Trial
19 Dates and Extend Time for Filing, **ECF No. 143**; Defendant Daniel
20 Loera's (07) Motion and Declaration to Join Motion and Declaration

1 to Continue Pre-Trial and Trial Dates [ECF No. 142], **ECF No. 150**;
2 and Defendant Jose Salas-Ortega's (03) Notice to Join in Pretrial
3 Motions Filed By Other Defendants, **ECF No. 154**, are **DENIED AS**
4 **MOOT**.

5 **3.** The Court finds, given defense counsels' need for time to review
6 discovery, prepare any pretrial motions, conduct investigation, and
7 prepare for trial, that failing to grant a continuance would result in a
8 miscarriage of justice and would deny defense counsel the reasonable
9 time necessary for effective preparation, taking into account the
10 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The
11 Court, therefore, finds the ends of justice served by granting a
12 continuance in this matter outweigh the best interest of the public and
13 Defendants in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

14 **4. Original CMO.** Counsel for all Defendants must review the
15 provisions of the Court's respective original CMOs, ECF Nos. 77 and
16 104, and abide by those procedures which remain in full force and
17 effect and are incorporated herein except for the new compliance
18 deadlines in the following Summary of Amended Deadlines.

19 **5. Pretrial Conference**

20 **A.** The current pretrial conference date of April 2, 2020 is

1 **STRICKEN and RESET to July 22, 2020 at 9:15 AM** in
2 **RICHLAND**. At this hearing, the Court will hear **ALL** pretrial
3 motions that are noted for oral argument.

4 **B.** All Pretrial Conferences are scheduled to last no more than
5 **thirty (30) minutes**, with each side allotted **fifteen (15)**
6 **minutes** to present their own motions and resist motions by
7 opposing counsel. If any party anticipates requiring longer than
8 fifteen minutes, that party must notify the Courtroom Deputy at
9 least seven (7) days prior to the hearing. **Any party who fails**
10 **to provide this notice will be limited to fifteen (15) minutes.**

11 **6. Trial.** The current trial date of May 11, 2020 is **STRICKEN** and
12 **RESET to August 24, 2020, at 9:00 AM** in **RICHLAND**. The **final**
13 pretrial conference will begin at **8:30 A.M.**

14 **7.** Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court
15 **DECLARES EXCLUDABLE from Speedy Trial Act calculations**
16 **as to ALL Defendants** the period from **March 2, 2020**, the date
17 defense counsel for Defendant Barrera-Gaytan (01) moved to
18 continue, through **August 24, 2020**, the new trial date, as the period of
19 delay granted for adequate preparation by counsel.

20 //

8. Summary of Deadlines

All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	July 1, 2020
PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	July 22, 2020 9:15 AM - RICHLAND
CIs' identities and willingness to be interviewed disclosed to Defendants (if applicable)	July 27, 2020
Grand jury transcripts produced to Defendants Case Agent: CIs: Other Witnesses:	July 27, 2020 July 27, 2020 July 27, 2020
Exhibit lists filed and emailed to the Court	August 17, 2020
Witness lists filed and emailed to the Court	August 17, 2020
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	August 14, 2020
Exhibit binders delivered to all parties and to the Court	August 14, 2020
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	August 14, 2020
Trial notices filed with the Court	August 14, 2020

//

//

//

//

//

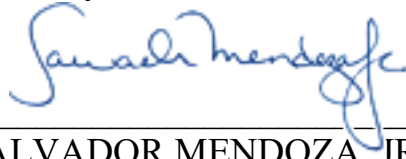
//

//

1 Technology readiness meeting (in-person)	August 17, 2020
2 JURY TRIAL	August 24, 2020 9:00 AM - RICHLAND

3 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
4 provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals
5 Service.

6 **DATED** this 18th day of March 2020.

7 

8 SALVADOR MENDOZA, JR.
9 United States District Judge